

peripheral products and services. In fact, the standard itself is entirely voluntary; users are free to incorporate it into their specifications or to reject it.

Private groups have established product standards in many different industry settings that have proved beneficial to both the consuming public and to the industries themselves. To this end, the Supreme Court has recognized that standard setting by private groups can have "significant procompetitive advantages" while also achieving important product and safety goals.¹³ In addition, it is well settled that standards that lower information costs and create better products "bring about the very benefits the antitrust laws seek to promote."¹⁴ The adoption of the Project 25 standard will produce these same beneficial results by having a procompetitive impact in the market for public safety communications, while promoting the sharing of information and technology, and achieving key product enhancements required by customers.

The Supreme Court has also recognized that product standards are only as good as the process by which they are developed. In particular, the Court has held that standards can enhance competition if "private associations promulgate . . . standards based on the merits of objective expert judgments and through procedures that prevent the standard-setting process from being biased by members with economic interest in stifling product competition."¹⁵ As detailed above, the Project 25 standard was developed in an open, inclusive manner,

¹³*Allied Tube & Conduit Corp. v. Indian Head, Inc.*, 486 U.S. 492, 501 (1988).

¹⁴*Clamp-All Corp. v. Cast Iron Soil Pipe Institute*, 851 F.2d 478, 487 (1st Cir. 1988).

¹⁵*Allied Tube & Conduit Corp. v. Indian Head, Inc.*, 486 U.S. at 501.

incorporating the broadest available reach of information. This attention to inclusion, coupled with the licensing requirement, has ensured that the Project 25 standard will achieve maximum consumer satisfaction while enhancing competition.

D. Implementation of the Project 25 Standard Has Already Demonstrated that the Standard Will Promote Competition in the Delivery of Compatible Equipment

Significantly, implementation of the Project 25 standard to date has already demonstrated that the standard will promote competition in the delivery of compatible equipment. First, as mentioned, Project 25 participants recognized early in the process that, for the standard to be successful, manufacturers who hold any IPR that has been selected must be willing to license that IPR to other participating manufacturers. Consequently, the participating vendors formulated a Memorandum of Understanding ("MOU") on Intellectual Property that has been signed by more than 20 manufacturers involved in the project, including Motorola, Ericsson, and E.F. Johnson. In accordance with the MOU, each vendor agrees to license essential IPRs on fair, reasonable, and non-discriminatory terms. This open process was established to allow additional manufacturers to become part of the process whenever they choose to do so, by signing the MOU.

A number of manufacturers have already stated their intent to develop Project 25 compatible equipment. Motorola, E.F. Johnson, and Stanilite Pacific, Ltd, have declared plans to manufacture both infrastructure and subscriber radios compatible with the Project

standard.¹⁶ In addition, Daniels Electronics Ltd. and GARMIN International plan to manufacture infrastructure; and Racal Communications, BK Radio Inc., and Transcript International plan to manufacture mobiles or portables compatible with the Project 25 standard.¹⁷ In Motorola's view, the growing list of vendors supporting Project 25 is a clear indication that the Project 25 standard is procompetitive and has already helped to promote multiple equipment sources.

The Commission should encourage voluntary, private standard setting where, as in this case, the standard was developed through an inclusive and thorough process, and where it has been demonstrated that procompetitive advantages can be achieved. The Project 25 standard will satisfy a range of needs identified by the public safety community, while enhancing competition among providers of interoperable technologies and services, thereby complementing the Commission's goals and policies.

VI. CONCLUSION

To ensure that public safety officers will have the communications systems and support needed to effectively and efficiently discharge their mission to protect public health and property, Motorola strongly urges the Commission to implement the recommendations of the PSWAC set forth in the *Final Report*. Most critical among these recommendations is the

¹⁶See Information Access Company, Public Safety Market Remains Competitive As Ever, Vendors Say Agency Finds Way To Request APCO 25 Without Excluding Anyone, Land Mobile Radio News, Vol. 49, No. 44 (Nov. 3, 1995).

¹⁷*Id.*

urgent need for more public safety spectrum and greater interoperability. As Motorola has noted, the PSWAC *Final Report* is the most comprehensive, detailed, and accurate assessment of the communications needs of the public safety users, with far-ranging input from every sector of the public safety community. Now that the PSWAC process has resulted in specific findings and key recommendations, Motorola believes it is incumbent on the FCC to act on those recommendations. Only by acting promptly and decisively can the Commission, in partnership with the NTIA and the states, avoid a communications crisis that threatens the lives and well-being of public safety officers and the public they are sworn to protect.

The PSWAC *Final Report* noted that digital technology will be the key technology for the future and that interoperability requires a minimum baseline standard. Motorola emphasizes that the Project 25 standard has been developed to meet both of these challenges. This digital standard was driven by public safety users, not the manufacturing community, to allow users a choice of many interoperable products from competing vendors. The Project 25 standard is non-proprietary and meets each of the characteristics defined by the Commission in the NPRM to enhance competition for communications systems in the public safety market. The Project 25 standard has already shown that it promotes competition, expanding the number of vendors who are committed to provide Project 25 compliant equipment. Motorola

believes that this competition will result in accelerated innovations, increased equipment and feature choices, and lower prices for the public safety community -- while ensuring interoperability and greater spectrum efficiency.

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